IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WP(C).No. 14455 of 2006(U)

AGAINST THE ORDER IN EA.354/2005 IN
EP.76/2006 of PRL.M.C.,KANNUR
.....

PETITIONER:

M.EBRAHIM, S/O. KAMAL,
AGED 55 YEARS, RESIDING AT MOYLERIYIL HOUSE,
VALIYANNUR AMSOM, VARAM DESOM,
KANNUR TALUK.

BY ADV. SRI.C.K.SREEJITH

RESPONDENT:

K.ABDULLA, S/O. AHAMMED KUTTY,
BAITHUL RAIN, CHEMBILODE, VENKENA,
P.O.MOUVANCHERY, KANNUR TALUK.

BY ADV. SRI.K.P.SREEKUMAR
SRI.P.M.SATHEESH
SRI.R.GIREESH VARMA
SRI.P.K.MAHASH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE AFFIDAVIT BEFORE THE MUNSIFF C0URT, KANNUR VIDE IA NO.4853/05.

EXT.P2 : TRUE OCPY OF THE AFFIDAVIT FILED ALONG WITH THE IA NO.4852/05 SEEKING AN ORDER TO CONDONE THE DELAY.

EXT.P3 : TRUE COPY OF THE ORDER PASSED BY THE LEARNED MUNSIFF COURT IN EA NO.554/2005.

EXT.P4 : TRUE COPY OF THE AUCTION NOTICE ALONG WITH THE SCHEDULE OF PROPERTY.

PIUS C. KURIAKOSE, J.

W.P.(C) No.14455 OF 2006

Dated this the 9th day of July, 2007

JUDGMENT

No representation for the petitioner. Heard Sri.K.P.Sreekumar, counsel for the respondent. Mr.Sreekumar submitted that it is obvious on a careful perusal of Exts.P1 and P2 which were filed by the petitioner before the trial court that the submissions made on his behalf before the execution court that he had filed applications prior to 07.12.05 (Exts.P1 & P2) before the trial court is wrong. I do find merit in the above submission. This court became inclined to admit this writ petition and grants stay on condition that the petitioner remits a sum of Rs.25,000/- within two months from 05.06.06. Mr.Sreekumar is not in a position to inform me whether the petitioner has complied with the condition imposed by this court on 05.06.06. The Writ Petition will stand disposed of issuing the following directions:

The execution court will verify whether the petitioner has in compliance with the interim order dt.05.06.06 of this court deposited a sum of Rs.25,000/- on or before 05.08.06. If it is seen on such verification that the deposit is not made, the Writ Petition will stand dismissed and impugned orders will stand confirmed. But if on verification it is seen that the petitioner has complied with the condition,

then the order of stay presently passed will continue for another two months. In the meanwhile, the learned Munsiff will take up IA Nos. 4852 and 4853 of 2005 (if they are pending even now) and dispose of those IAs after hearing both sides. At any rate the order of stay will not continue beyond two months.

PIUS C. KURIAKOSE, JUDGE

btt